

Please OPPOSE HB 4015 and support our  
Michigan live entertainment industry and fans.

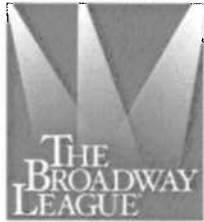
Sincerely the Michigan Sports & Entertainment Industry Coalition



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## TESTIMONY REGARDING H.B. 4015

House Criminal Justice Committee

Matt Blasy | The Dow Event Center and First Merit Bank Event Park

March 17, 2015

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Good morning, Mr. Chairman and Members of the Committee. I want to thank you for the opportunity to voice my concerns regarding House Bill 4015. My name is Matt Blasy. I am the General Manager of The Dow Event Center and First Merit Bank Event Park in Saginaw, and we oppose H.B. 4015. I'm also here as a member of the Michigan Sports & Entertainment Industry Coalition. Members of our Coalition include venues such as mine, and organizations such as The Recording Academy, and International Association of Venue Managers (IAVM) all of which are opposed to H.B. 4015.

Local venues across the Great Lakes State attract millions of patrons each year to a wide variety of events from football to basketball, from baseball to hockey and from rock concerts to theatre performances. The list is endless. Unfortunately, so too are the lengths that scalpers will go to in depriving fans of the ability to purchase tickets safely, securely—and at face value. As a supporter and committed partner of the Saginaw community, we price tickets for our fans and mid-Michigan region not for out-of-state brokers and resellers.

H.B. 4015 will make a bad situation even worse by removing measures that help keep tickets at the face-value price the artists, teams, and venues intend for Michigan fans. When tickets for high-demand events first go on sale, scalpers use banks of computers and hacking programs called BOTs to try and get all the best tickets while jamming fans out of the purchasing process. Out of the process, that is, until within minutes, those seats are then listed on resale sites like StubHub at incredibly inflated prices.

A recent example of BOTs, and their negative impact, on the Dow Event Center is when Jerry Seinfeld performed last April. The show nearly sold out the day tickets went onsale and those involved with the event (the artist, promoter, and venue) immediately decided to add a second show. When tickets for the second show were not selling as anticipated, it was identified that a significant amount of the first show's tickets purchased during the onsale were done so with the intent of reselling, in turn causing a false demand for a second show. The end result was the second show was at 50% capacity, which is extremely uncommon for an act the level of Jerry Seinfeld and a poor reflection on the market. A lot of hard work went in to bringing Jerry Seinfeld to a small market, such as Saginaw, for the first time in

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more than a decade. If the first show sold in a manner that put tickets in the hands of those that wanted to attend the event, it would have been a positive experience for all. Instead, it created a negative experience for the artist, promoter, venue, and most importantly the fans.

However, we are not here to oppose the resale market: It has its place. Michigan fans currently have the opportunity and flexibility to resell their tickets when life's unexpected moments occur and they can no longer attend an event. We are trying to ensure that the tickets that go to resellers are from fans who need to resell a ticket, as opposed to operators who buy blocks of tickets for the sole purpose of reselling them, at the expense of fans who then are left with sky high ticket prices as their only option.

Those testifying in favor of H.B. 4015 are asking the Legislature to protect out-of-state scalpers to the detriment of Michigan fans. In reality, StubHub and other ticket resale business models are threatened by innovations and ticketing methods that thwart scalping, which is why they are asking you to ban what they fear the most.

We want fans to have a good, safe ticketing experience. And we want those fans to have a chance to buy tickets at original cost so they can afford to come back to our member's venues again and again. StubHub and those supporting this bill frame this as a property rights issue. Do not be fooled. To be clear, we do not oppose ticket resale. Many fans enjoy the options available to them on the resale market. We do, however, reject the attempts to redefine ticket ownership.

You can usually tell who will benefit from a piece of legislation by looking at who is supporting it. In this case, you've heard from front groups supported by resale sites and organizations whose profitability is directly tied to how much they can inflate the price of a ticket resold to fans. If this legislation is good for them, it can't be good for Michigan consumers—or for venues like mine, who rely on fans being able to afford to come to events again and again. Not to mention, have taken on the business risk to put on a show and ensure its success. We have executed contracts with artists who expect us to honor the

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particulars of those contract; so if Kid Rock wants to sell tickets for \$20, we want to ensure all of our inventory is sold at that price.

We must remember concert performers, and sporting events have a choice on to where they play. The bill sponsor asserts he wants to keep this bill “simple” by not entertaining any changes in the form of amendments, well, as my testimony clearly illustrates, this issue isn’t simple and shouldn’t be viewed by the legislature with such a narrow lens. **A lens that would prevent this body from offering changes that would protect the consumer and prohibit such dubious practices as allowing resale sites to sell tickets they don’t even possess to unsuspecting fans.** I respectfully ask this committee to look at this issue comprehensively and ensure any legislation passed benefit Michigan fans and the Michigan venues that employ your constituents, and have a vested interest in ensuring patrons have a quality experience purchasing tickets and attending any show.

Thank you. I’m happy to take any questions.



# The Seattle Times

WINNER OF EIGHT PULITZER PRIZES



## Fans still reeling from Super Bowl ticket nightmare

By Geoff Baker, Seattle Times

Originally published February 28, 2015 at 2:54 pm

Updated March 11, 2015 at 10:28 pm

The Washington attorney general's office has fielded numerous complaints from football fans who spent thousands of dollars on tickets that never came.

Her youngest son was in tears and their family's Super Bowl dream was fading fast as Heidi Van Boven pleaded with a ticket broker to finalize her \$25,000 order for two last-minute seats.

Seahawks fan Van Boven, of Grandview in Eastern Washington, woke up Super Bowl Sunday in Phoenix to find an email that four tickets she'd purchased online for more than \$12,000 nearly two weeks earlier had fallen through. Frantic, she searched a ticket marketplace that was dramatically inflated by then, snagging two seats for \$24,600 from one company and a final pair for \$25,500 from yet another so she, her husband, Steve, and sons John and Ryan could attend the game.

But the last broker had suddenly switched gears and demanded cash. "I yelled at him, 'Who carries that much cash around?' " Van Boven, 46, said.

The broker hung up. Later, he finally agreed to accept a Visa debit card, and the family — about \$50,000 lighter — had salvaged its Arizona trip.

Four weeks later, Van Boven, having better processed what her family endured during arguably the worst ticket debacle in American sports history, wants changes to prevent another free-for-all from recurring.

And she's not alone.

Peter Lavalley, a spokesman for Washington Attorney General Bob Ferguson, said that office has received 111 complaints related to undelivered Super Bowl tickets — seven of those against DEM Ticketing, the Pittsburgh-area broker that sold Van Boven her initial tickets and then reneged.

"The main relief we are able to offer consumers is to try to get refunds for them," Lavalley said. "And especially for companies within our jurisdiction, there are corporate penalties that can be imposed if warranted."

Van Boven has filed complaints with Ferguson's office and the attorney general in Pennsylvania, alleging fraud against the DEM Ticketing. She's also furious at the Phoenix-based broker she says demanded the cash for her final two tickets when her family was most vulnerable.

"I don't want any other family to have to go through what we did," she said. "We bought from a company we thought was reputable just to avoid dealing with this kind of thing in the first place."

Van Boven knows she's fortunate her family, which operates a calf ranch, could afford last-minute tickets. Her tale portrays the dark side of an estimated \$5-billion-a-year ticket resale industry that's under increased scrutiny as Super Bowl complaints mount nationwide.

Many buyers had no idea before this year's Super Bowl that brokers often "short sell" tickets they don't yet own. They typically buy enough tickets to fill those orders once street prices fall the week of the game — then profit on the difference.

But prices this year soared beyond \$10,000 and barely fell, leaving brokers staggering if they honored their advance sales. And many did not.

The exact cause for the record spike in Super Bowl ticket prices is unclear, though brokers suggest multiple factors.

Some attribute it partly to well-heeled Seahawks fans descending on Arizona in droves, driving up demand and prices.

Others blame the NFL and teams for delaying release of some tickets and limiting those provided to players, coaches, alumni and sponsors who supply the resale market. The critics say this was done to squeeze short-selling independent brokers and drive business to Ticketmaster, the NFL's official resale partner.

NFL spokesman Brian McCarthy said nothing changed this year with ticket distribution.

Brokers protect themselves with fine print obliging them only to refund money for undelivered tickets. Some gave refunds of up to 200 percent to cover incidentals like flights and hotels, while others simply shrugged.

### **A shadowy world**

The Van Bovens, like many caught in the Super Bowl ticket shortage, had no idea who they were really buying from.

They initially found four tickets on Seat Geek, one of the nation's largest online search engines for ticket resale. But the club level seats — each costing \$2,629 plus a \$525.80 service charge — actually came from smaller DEM Ticketing.

The Van Bovens corresponded with a DEM representative identifying himself as "Brian Thompson" over the phone and in writing. A subsequent DEM email stated that "Brian" and "Dave" would arrive in Phoenix midweek before the game and distribute tickets Saturday and Sunday at the Mallorca ballroom of the Suburban Extended Stay hotel in Tempe, Ariz.

They promised additional information about exact pickup times.

The Van Bovens arrived in Phoenix on Friday, but by Saturday had heard nothing further. Cellphone numbers for Brian and Dave went unanswered, and when Van Boven tried texting, she found her number blocked.

By midafternoon, a DEM email arrived saying tickets were delayed and pickup would now occur an hour before kickoff, across from the stadium. Van Boven was peeved, but went to bed hopeful her situation wouldn't turn into one of the horror stories she'd been hearing, about fans being denied tickets by brokers.

She awoke Sunday and found a 4:30 a.m. email from DEM.

"After substantial attempts to retain tickets which were promised to us under contract from our Super Bowl supplier of 12 years, we are unable to fill your Super Bowl ticket order," the email stated.

It promised a refund in three to seven business days. Van Boven has yet to receive one.

Some of DEM Ticketing's representations were misleading.

The company claimed it had been jilted by its Super Bowl supplier of 12 years, but DEM formed only last September, according to Pennsylvania corporate records. None of its listed officers appears to have prior experience running a ticket business in Pennsylvania or elsewhere.

DEM operates out of a two-bedroom apartment across from a Chipotle restaurant, a burger joint and a tire store.

In addition, the Brian Thompson who supposedly dealt with the Van Bovens does not work for DEM (though he has worked for other ticket brokers). The man who traveled to Arizona to deliver tickets was actually Brian Mozzoni, a onetime professional poker player who had been a silent partner in DEM all along. Mozzoni has a decade-plus of experience in the ticket industry and once worked as a ticket "runner" for a company called Ticket Option, before being fired for "lack of production," that company's owner, Randy Kushner, said.

Further checks showed DEM Ticketing never reserved the Tempe hotel's ballroom.

"People were asking for the ballroom because they had tickets to pick up," hotel front-desk employee Etko Patel said. "But nobody had rented out the ballroom. They just used our name."

DEM's president, David Marks, initially maintained his company had reserved the ballroom. But when told the hotel desk staffer's comments, he said they'd planned to distribute tickets in a lobby just outside it.

Marks also said he did not employ a Brian Thompson and has "no idea" why that name was on DEM emails.



Marks confirmed Brian Mozzoni was his business partner but declined to elaborate, other than saying Mozzoni's longstanding contacts were to have supplied the Super Bowl tickets that never came. He said DEM will seek bankruptcy protection, but referred questions to a lawyer, Michael Oliverio.

Oliverio declined to confirm bankruptcy preparations but described DEM as burned by suppliers on about 60 tickets. He said Marks was working with credit-card companies to ensure customers are refunded.

Mozzoni could not be reached. Photos and updates on Marks' Facebook account indicate he and Mozzoni arrived in Phoenix on the Wednesday before the game and attended the Phoenix Open golf tournament on Thursday, then a Playboy VIP party hosted by rapper Nelly at the W hotel on Friday night.

### **The nightmare continues**

Van Boven says her family had no such fun.

The DEM tickets they bought on Seat Geek had been placed there by a Connecticut company called The Ticket Network, which helps brokers market and sell seats. Once DEM reneged, Van Boven phoned The Ticket Network and they worked to book her new seats online through other affiliated brokers.

It was one of those affiliates, The Ticket Lobster, whose owner demanded the \$25,000 in cash.

At a southeast Phoenix strip mall where The Ticket Lobster is headquartered, owner William Furniss emerged from behind a locked backroom door and said he couldn't recall his exact exchange with the Van Bovens.

He said he'd spent \$49,000 to acquire 16 tickets from a Florida-based company that reneged without refunding his money. That and four other reneged-on deals forced him to scramble to fill orders, filling some at "substantial" losses while refunding others to devastated customers.

"I went from having a company after 20 years to having my credit maxed out," Furniss said.

His phone kept ringing with irate customers threatening harm if promised seats weren't delivered.

"There are going to be big changes everywhere after this," Furniss said. "I know from now on we'll be doing our contracts in writing with consequences if you break the deal. No more handshakes."

Two days after that interview — 2½ weeks after the game — Van Boven learned somebody in West Covina, Calif., had tried to use her card. She filed a report with her local sheriff's department, noting the card hadn't been used since the Super Bowl.

Van Boven has canceled her card and still waits for her initial \$12,000 to be refunded. She's angry and wants "short selling" outlawed so this can't keep happening.

She wonders how DEM can claim it never received her tickets when she was given exact section and seat numbers upon purchase.

It's too easy, she said, for brokers to break orders by claiming they never received tickets and then turn around and sell elsewhere for bigger money. At the very least, she wants brokers held liable for all Super Bowl-related expenses, plus the added costs to customers forced to buy last-minute tickets because of canceled orders.

"If I knew then what I know today about how this system operates," she said, "I would have just stayed home and watched the game on TV."





## TESTIMONY OF THE BROADWAY LEAGUE

The League is the trade association for the commercial theatre industry and counts more than 700 producers, venue owners and road presenters among its members. *We proudly represent the Fisher/Nederlander Detroit Theatre, Miller Auditorium and Wharton Center for Performing Arts*

While at first blush the proposal appears a simple measure to expand the free market and bring fairness to the ticket buying public, in application this bill does little to advance consumer protection. On the contrary, H.B. 4015 will preclude Michigan's law enforcement and venue operators from protecting the ticket buying public from the common practices employed by ticket brokers. With the advent of internet ticket sales, brokers have developed sophisticated systems for hijacking our inventories, confusing patrons as to who they are doing business with, the availability of tickets from the primary source and misleading buyers about a ticket's true price.

As venues across the country have made efforts to combat many unscrupulous broker practices, secondary market advocates have supported legislation that either demands venues disclose proprietary information so brokers may more accurately price tickets or, as in the bill before you, remove legal barriers to their operations. Recently, The Broadway League has opposed such legislation in Florida, Maryland, Massachusetts, Tennessee, California, New Jersey, Minnesota and Texas, just to name a few jurisdictions. And, in all instances, the legislature ultimately determined that consumers were best served when brokers could not operate with impunity.

Brokers often insert venue names into their internet URLs, post copyrighted logos on their websites, advertise inventory they have not obtained and even conceal

original prices. This is all to mislead the public into believing they are transacting with an authorized agent of the artist or venue. For highly popular shows, brokers often use software to bypass venue-imposed buying allowances and purchase large quantities of tickets, eliminating inventory and precluding the casual theatre-goer from obtaining a ticket without paying a massive markup. Satisfying our buyers and ensuring they have an enjoyable experience throughout the entire process is our number one priority. However, when patrons receive scalped tickets and learn the seats are not in the location promised, or the broker listed a \$65 for \$165, the venue's staff is left to assist confused, angry customers who are less likely to purchase tickets again in the future.

H.B. 4015 purports to overrule a century of judicial decisions that have continually upheld the standard that a ticket is a revocable license to access a facility at a particular time for a particular purpose. The ticket is merely a physical representation of that license agreement. It is not a commodity to be freely traded at what brokers consider 'market rate.'

The audience's experience is our product. How we grant customers access to our facilities and how we price our tickets are marketing decisions carefully made by the individuals who have invested their time and resources into creating the content of that experience. However, brokers are not consumers, they do not represent the interest of consumers, and the State Legislature should not endorse their practices, nor accept the assertion that price restrictions on resale prevent buyers from conveying tickets. Obviously, that is a fraudulent claim.

We all recognize that a thriving live entertainment industry is vital to the state's economy and we thank the Committee for the opportunity to oppose a bill that, we feel, will ultimately harm your venues and patrons.

# The Seattle Times

WINNER OF EIGHT PULITZER PRIZES



## State sues Super Bowl broker that sold tickets it never had

By Geoff Baker, Seattle Times

Originally published March 11, 2015 at 8:49 pm

Updated March 12, 2015 at 6:17 am

Washington attorney general Bob Ferguson announced a lawsuit against SBTickets.com for the company's failure to produce tickets it promised to 2015 Super Bowl fans. The suit brought by state Attorney General Bob Ferguson accuses SBTickets.com of failing to deliver on 60 tickets it sold to Washington residents for a combined \$149,000.

Washington Attorney General Bob Ferguson is suing a New York ticket broker for what the suit calls "unfair" and "deceptive" practices leading up to last month's Super Bowl.

The lawsuit against SBTickets.com of Melville, N.Y., says the company failed to deliver on 60 tickets it had sold to Washington residents for a combined \$149,000, leaving fans unable to attend the game after they'd spent considerable money traveling to Arizona. SBTickets is accused in the suit of failing to tell customers it was engaging in "short selling," meaning it didn't actually possess the tickets it sold as guaranteed on its website.

Ferguson said Wednesday that his office had received 120 formal complaints against 35 companies related to Super Bowl ticket short selling. SBTickets topped the list with 24 complaints.

Ferguson didn't mince words when asked at a downtown news conference whether he felt SBTickets and other short-selling brokers were "scammers" for not delivering promised seats.

"Oh yeah, absolutely," he said. "Scammers, cheaters, stealers, you name it. Are you kidding? Absolutely."

The lawsuit seeks \$2,000 in penalties for each "violation" of the Consumer Protection Act — which could include multiple infractions per ticket order — with any money awarded going to the state's general fund.

The suit also seeks compensation for ticket buyers covering their costs for flights, hotels and other expenses in Arizona, as well as a permanent injunction preventing SBTickets from continuing to engage in the practices described.

Ferguson's move follows a class-action lawsuit filed late last week by Seattle law firm Keller Rohrback, alleging fraudulent and deceptive practices by SBTickets and its owner, Paul Jones.

If the court approves class-action status, industry sources say the suit could ultimately involve more than 100 people from around the world who were denied seats they'd bought via SBTickets. David Ko, a lead attorney on that suit — the first such action filed in the U.S. after the Super Bowl short-sale debacle — declined to speculate how many were affected.

Short-selling brokers sell Super Bowl tickets before actually having them in hand, then try to buy them the week before the game when street prices tend to drop. The brokers use the cheaper tickets to fill their orders and profit on the difference.

But this year, ticket prices soared above \$10,000 and never really fell. That forced brokers to cancel their orders for hundreds, possibly thousands of people, or endure losses of thousands of dollars per ticket to honor deals.

Both lawsuits hinge largely on guarantees made by SBTickets, on its website and in emails to customers, that purchased tickets would be delivered in Arizona.

One claim on the website, mentioned in both lawsuits, states: "Our orders are 100% Guaranteed, No tricks or gimmicks, For the unforeseen circumstances, you will get your tickets one way or another, Guaranteed!"

Both lawsuits also mention an email sent by SBTickets owner Jones to customers just three days before the game, advising of a change in the ticket-pickup location and date. The email adds: "Please rest assured that having chosen SBTickets as your Super Bowl ticket provider, your ticket(s) are guaranteed and waiting to get you into the Big Game."

But by Saturday, the day before the game, Jones had emailed customers warning he did not have enough tickets for every customer. He said he would honor whatever purchases he could, in the order they were made.

Both lawsuits say that SBTickets instead distributed tickets based on whoever had paid the highest price. Those who didn't receive tickets were refunded their purchase price.

Attempts to reach Jones were referred to a New York attorney, Mark Heller, who said Jones had not received his full ticket order from suppliers. Heller denied Jones had sold his restricted inventory to those paying the most.

"Mr. Jones at all times worked in good faith," Heller said. "He honestly sought to fulfill the orders and when he was unable to, he let everybody know immediately. He literally worked around the clock to make sure everyone got their refunds."

But both lawsuits say the refunds didn't go far enough, given that customers endured hefty additional costs getting to Arizona. The suits demand compensation for those costs — an idea Heller dismissed.

"I don't see that as being recoverable," he said. "You purchase something, you don't get it, you get your money back. That's the extent of it."

The Keller Rohrback suit, filed in Arizona, mentions SBTickets customers who had flown in not only from Seattle but Brazil, The Netherlands, Australia and even Papua, New Guinea, and were now out thousands of dollars.

Seattle resident Lisa Sterritt, 51, whose husband, Brent, is one of five named plaintiffs in the class-action suit, said they had picked SBTickets over other brokers because of its guarantees. She says it wasn't until the day before the game that they learned their two tickets — costing \$4,000 — might not be delivered.

They got final word while driving to the University of Phoenix Stadium the morning of the game.

"I was completely flabbergasted," Sterritt said. "Both of us were. Everywhere we looked on the website ... there was a guarantee, no matter what, that you were going to get your tickets."

Sterritt said she was fortunate in that they stayed with family in Phoenix and didn't incur hotel costs in addition to airfare. Staying with family, she said, was the only way they could afford to attend the Super Bowl, meaning they might never again get that chance.

"This was really 'bucket list' for us," she said. "That's what makes this so disappointing."

The AG's lawsuit said buyers should have been told at the point of purchase that SBTickets was short-selling seats it didn't yet have.

"It is an unfair and deceptive practice to misrepresent that persons are guaranteed to get a ticket when that was not true," the lawsuit states. "It is an unfair and deceptive act or practice to sell a futures contract without clearly and conspicuously disclosing that the tickets or other items purchased may not be available."

Ferguson said his office continues to investigate short-selling cases involving other brokers and that consumers who believe they were wronged shouldn't hesitate to file complaints.

To file a complaint about a ticket broker, visit [www.atg.wa.gov](http://www.atg.wa.gov) and click the "Consumer Complaint" button, or call 1-800-551-4636 FREE between 10 a.m. and 3 p.m., Monday through Friday.

"The Super Bowl is a game; we get that," Ferguson said. "But the experience is an experience that's once in a lifetime ... and that's what they were cheating those folks out of in addition to the money. And in my view, that makes it especially egregious."